

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

GARY J. HELBLING  
(CRD No. 2655105),

Respondent.

Expedited Proceeding  
No. ARB210004

STAR No. 20210707213

Hearing Officer–DRS

**EXPEDITED DECISION**

July 23, 2021

**Respondent failed to pay an arbitration award rendered against him and failed to prove that he has a bona fide inability to pay the award. Respondent is therefore suspended from associating with any FINRA member firm in any capacity.**

*Appearances*

For the Complainant: Michelle Galloway, Esq., Loyd Gattis, Esq., and Jennifer L. Crawford, Esq., Department of Enforcement, Financial Industry Regulatory Authority

For the Respondent: Michael T. Vitali, Esq.

**DECISION**

**I. Introduction**

FINRA requires associated persons to pay arbitration awards promptly. If they do not, FINRA can institute an expedited process that may result in the associated person's suspension from associating with any FINRA member firm. Registered representative Gary J. Helbling failed to pay an arbitration award rendered against him in favor of his former employer, a FINRA member firm. As a result, FINRA notified Helbling that he would be suspended. Helbling stayed the forthcoming suspension by timely requesting a hearing. His hearing request asserted as his defense that he was financially unable to pay the award.

I held a videoconference hearing on that defense. Based on the evidence presented at the hearing, I find that Helbling failed to prove that since the award was rendered, he lacked the ability to pay the award in full or at least a meaningful portion of it. Helbling therefore failed to establish his defense, and I suspend him from associating with any FINRA member firm in any capacity.

## II. Regulatory Framework

FINRA's rules and By-Laws create a regulatory framework addressing the payment of arbitration awards and the consequences for nonpayment. Under FINRA rules governing industry-related arbitrations, "[a]ll monetary awards shall be paid within 30 days of receipt unless a motion to vacate has been filed with a court of competent jurisdiction."<sup>1</sup> If an associated person does not pay an arbitration award, then, under FINRA's By-Laws, FINRA may suspend the person "where a timely motion to vacate or modify such award has not been made pursuant to applicable law or where such a motion has been denied . . . ."<sup>2</sup>

The regulatory scheme includes an expedited procedure to suspend an associated person for nonpayment of an award.<sup>3</sup> FINRA Rule 9554(a) authorizes FINRA to send a notice "stating that the failure to comply within 21 days of service of the notice will result in a suspension . . . from associating with any member." A person served with notice of a proposed suspension may stay the suspension by requesting a hearing before the effective date of the suspension.<sup>4</sup> If a respondent requests a hearing, then, according to FINRA Rule 9554(e), the request "must set forth with specificity any and all defenses." FINRA recognizes several defenses to a suspension notice for nonpayment of an arbitration award: (1) the arbitration award has been paid in full; (2) the parties to the arbitration have agreed to installment payments of the award, or have otherwise agreed to settle, and the respondent is not in default of the settlement; (3) the award has been vacated by a court; (4) a motion to vacate or modify the award is pending in a court; and (5) the respondent has a bankruptcy proceeding pending in a U.S. Bankruptcy Court, or a U.S. Bankruptcy Court has discharged the award.<sup>5</sup> A respondent also may assert a bona fide inability to pay an award rendered in an industry dispute,<sup>6</sup> as Helbling does here.

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<sup>1</sup> FINRA Rule 13904(j).

<sup>2</sup> FINRA's By-Laws, Article VI, Section 3(b).

<sup>3</sup> FINRA may also institute a disciplinary proceeding for failure to comply with an arbitration award. *See Keith Patrick Sequeira*, Exchange Act Release No. 81786, 2017 SEC LEXIS 3105, at \*3 (Sept. 29, 2017), *decision following remand*, *Regulatory Operations v. Sequeira*, No. ARB160035 (OHO Dec. 21, 2017), [https://www.finra.org/sites/default/files/OHO-Sequeira-ARB160035-122117\\_0.pdf](https://www.finra.org/sites/default/files/OHO-Sequeira-ARB160035-122117_0.pdf), *appeal dismissed*, Exchange Act Release No. 85231, 2019 SEC LEXIS 286 (Mar. 1, 2019), *petition for review denied*, 816 F. App'x. 703 (3d Cir. 2020).

<sup>4</sup> *See* FINRA Rule 9559(c) (providing that a timely request for a hearing will stay the effectiveness of the suspension notice).

<sup>5</sup> *See, e.g., Dep't of Enforcement v. Malatesta*, No. ARB200025, 2021 FINRA Discip. LEXIS 1, at \*3 (OHO Jan. 13, 2021) (listing the recognized defenses); NASD Notice to Members 00-55 (Aug. 2000), <http://www.finra.org/rules-guidance/notices/00-55>. The parties stipulated that Helbling has not entered into a fully executed, written settlement agreement with the claimant; has not filed for bankruptcy protection; and does not have a pending motion in court to vacate the underlying arbitration award. Stipulations ("Stip.") ¶¶ 8–10.

<sup>6</sup> *See, e.g., Malatesta*, 2021 FINRA Discip. LEXIS 1, at \*3.

### III. Findings of Fact and Conclusions of Law

#### A. Helbling Failed to Pay an Arbitration Award and FINRA Sent Him a Suspension Notice

Since entering the securities industry in 1995,<sup>7</sup> Helbling has been registered with six FINRA member firms.<sup>8</sup> Beginning in June 2019, he has been registered as a General Securities Representative with the same FINRA member firm.<sup>9</sup> On January 28, 2021, an arbitration award was entered against Helbling in the matter of *Oppenheimer & Co. Inc. v. Helbling* (“Award”).<sup>10</sup> The amount of the Award was approximately \$28,000.<sup>11</sup> The next day, January 29, FINRA Dispute Resolution notified Helbling that the Award had been issued and that he must pay it in full within 30 days.<sup>12</sup> Helbling did not pay the Award.<sup>13</sup>

So, on March 2, 2021, FINRA sent him a notice of suspension under FINRA Rule 9554 (“Suspension Notice”).<sup>14</sup> The Suspension Notice informed Helbling that, among other things, he would be suspended from association with FINRA member firms, effective March 23, 2021, unless he showed that he (1) had paid the Award in full; (2) entered into a fully executed, written settlement agreement with the claimant, and his obligations under it are current; (3) timely filed an action to vacate or modify the Award and such motion has not been denied; or (4) filed a petition in bankruptcy court and the bankruptcy proceeding is pending, or the bankruptcy court has discharged the Award or payment owed under the settlement agreement (collectively, the “Rule 9554 enumerated defenses”).<sup>15</sup> The Suspension Notice also advised Helbling that he had the right to request a hearing to assert any of the Rule 9554 enumerated defenses, “or to claim as a defense a bona fide inability to pay the award.”<sup>16</sup>

Helbling timely filed a hearing request on March 17, 2021.<sup>17</sup> In the request, he asserted a bona fide inability to pay the Award, which stayed the effective date of his suspension. Two months later, on May 18, 2021, I held a videoconference hearing. Helbling was the sole witness.

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<sup>7</sup> Joint Exhibit (“JX-”) 1, at 6–7.

<sup>8</sup> JX-1, at 2.

<sup>9</sup> Stip. ¶ 1; JX-1.

<sup>10</sup> Stip. ¶ 2; JX-2.

<sup>11</sup> Hearing Transcript (“Tr.”) 37–38. The claimant was awarded \$23,741.15 in compensatory damages, plus interest on the amount of \$18,248 at the rate of 9 percent per year from June 5, 2019, through and including the date of payment in full, and \$1,050 to cover the claimant’s filing fee. JX-2, at 2.

<sup>12</sup> Stip. ¶ 3; JX-3.

<sup>13</sup> Stip. ¶ 4.

<sup>14</sup> Stip. ¶ 4; JX-4; JX-5; JX-6. Helbling was properly served with the Suspension Notice. Stip. ¶¶ 5–6; JX-7.

<sup>15</sup> JX-5, at 1.

<sup>16</sup> JX-5, at 1.

<sup>17</sup> Stip. ¶ 7.

The only issue in the case is whether Helbling proved that he had a bona fide inability to pay the Award.

## **B. Applicable Law Governing the Inability-to-Pay Defense**

The burden of proving a bona fide inability to pay rests on the respondent.<sup>18</sup> Merely showing serious financial distress or that it would be hard or painful to pay an arbitration award does not establish the defense.<sup>19</sup> Nor is it sufficient for a respondent to show that he currently lacks funds to pay the award in full<sup>20</sup> or that at some time after the award was rendered he had insufficient assets to pay the award.<sup>21</sup> Instead, a respondent must show that at no time after the award became due did he have the ability to make a meaningful contribution toward it from available assets or income,<sup>22</sup> or by reducing living expenses,<sup>23</sup> borrowing funds,<sup>24</sup> diverting funds from other expenditures,<sup>25</sup> or otherwise.<sup>26</sup> Stated a bit differently,

[a]n inability-to-pay defense may be rejected if it appears that the respondent is capable of reducing his living expenses, has the ability to divert funds from other expenditures to pay the award, could borrow the funds, or could make some meaningful payment toward the settlement of the award from available assets or income, even if he could not pay the full amount of the award.<sup>27</sup>

## **C. Helbling Failed to Establish His Inability-to-Pay Defense**

Helbling maintained that he lacked the financial ability to pay the Award or a meaningful portion of it. He blamed this on a “lack of income and a major career setback a few years back.”

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<sup>18</sup> See, e.g., *Michael Albert DiPietro*, Exchange Act Release No. 77398, 2016 SEC LEXIS 1036, at \*16 (Mar. 17, 2016); *Malatesta*, 2021 FINRA Discip. LEXIS 1, at \*4.

<sup>19</sup> *Dep’t of Enforcement v. Shimko*, No. ARB200002, 2020 FINRA Discip. LEXIS 41, at \*12 (OHO Sept. 15, 2020).

<sup>20</sup> *Dep’t of Enforcement v. Motherway*, No. ARB200006, 2020 FINRA Discip. LEXIS 39, at \*4 (OHO June 30, 2020); *Dep’t of Enforcement v. Seglund*, No. ARB190040, 2020 FINRA Discip. LEXIS 40, at \*5 (OHO Apr. 16, 2020).

<sup>21</sup> *Dep’t of Enforcement v. Tretiak*, No. C02980085, 2000 NASD Discip. LEXIS 35, at \*20 (OHO Mar. 10, 2000), *aff’d*, 2001 NASD Discip. LEXIS 1 (NAC Jan. 23, 2001), *aff’d*, Exchange Act Release No. 47534, 2003 SEC LEXIS 653 (Mar. 19, 2003).

<sup>22</sup> *DiPietro*, 2016 SEC LEXIS 1036, at \*16; *Malatesta*, 2021 FINRA Discip. LEXIS 1, at \*3–4.

<sup>23</sup> *Motherway*, 2020 FINRA Discip. LEXIS 39, at \*4.

<sup>24</sup> *Id.*

<sup>25</sup> *Tretiak*, 2000 NASD Discip. LEXIS 35, at \*20.

<sup>26</sup> *Motherway*, 2020 FINRA Discip. LEXIS 39, at \*4.

<sup>27</sup> *Dep’t of Enforcement v. Pincus*, No. ARB180031, 2019 FINRA Discip. LEXIS 7, at \*6 (OHO Feb. 7, 2019) (quoting *Dep’t of Enforcement v. Respondent*, OHO Redacted Decision ARB010001, at 11 (July 26, 2001), [http://www.finra.org/rules-guidance/adjudication-decisions/office-hearing-officers-oho/p006655\\_0.0.pdf](http://www.finra.org/rules-guidance/adjudication-decisions/office-hearing-officers-oho/p006655_0.0.pdf) (citing *Dist. Bus. Conduct Comm. v. Escalator Sec., Inc.*, No. C07930034, 1998 NASD Discip. LEXIS 21, at \*13 (NBCC Feb. 19, 1998))); *DiPietro*, 2016 SEC LEXIS 1036, at \*16 n.22 (citation omitted).

He also complained that while he is trying to “hit the ground running” and “ramp up” his business, COVID-19 has made that difficult.<sup>28</sup>

The evidence showed that Helbling has experienced financial distress during the past year. In connection with this proceeding, Helbling prepared a Statement of Financial Condition dated April 19, 2021 (“Financial Statement”).<sup>29</sup> The parties stipulated to the accuracy of the information in it.<sup>30</sup> The Financial Statement reflects that, as of April 19, Helbling had (1) assets valued at about \$383,000, the largest of which was his home, valued at \$350,000; (2) liabilities of about \$532,000, the largest of which are mortgages on his home totaling about \$361,000, and about \$101,000 in credit card debt;<sup>31</sup> and (3) a negative net worth of about \$149,000.<sup>32</sup> According to the Financial Statement, during the 12 months before April 2021, Helbling had income of about \$70,000, which consisted of the pay he received from his employer,<sup>33</sup> and monthly expenses of about \$6,000.<sup>34</sup>

The parties disputed whether Helbling has had a negative or positive monthly cash flow since the Award was issued and for several months beforehand. Helbling claimed he has had a negative monthly average cash flow of \$2,000 since at least mid-April 2020.<sup>35</sup> As a result, he denied currently having the capacity to make any payments toward the Award.<sup>36</sup> By contrast, Enforcement asserted that Helbling has had a positive monthly cash flow of about \$3,600 since at least mid-November 2020, enough to make a meaningful payment toward the Award.<sup>37</sup> These

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<sup>28</sup> Tr. 61–62.

<sup>29</sup> JX-8.

<sup>30</sup> See Stip. ¶ 13 (stipulating that certain exhibits, including the Financial Statement, are “correct” and “accurate,” as well as “authentic” and “admissible”); Tr. 93–95 (Enforcement stipulating that the numbers in certain exhibits, including the Financial Statement, are “accurate”).

<sup>31</sup> The evidence reflects that while Helbling owes about \$123,600 to various creditors, he is not making payments toward any of those debts with one exception—an outstanding balance of \$3,300 owed to one creditor based on a settlement agreement. Tr. 95–96; Respondent’s Exhibit (“RX-”) 1.

<sup>32</sup> JX-8, at 2.

<sup>33</sup> JX-8, at 5. Besides the Financial Statement, the parties introduced other evidence of Helbling’s compensation during various time periods both before and after January 28, 2021. See JX-8, at 4; JX-13, at 3 (showing Helbling’s gross income for 2020 was about \$78,500); RX-4; RX-6; Tr. 45–46, 48 (showing Helbling’s pre-tax income for Apr. 17, 2020 to Apr. 16, 2021, totaling around \$67,000 and averaging about \$5,600 per month. RX-4, at 1 understates Helbling’s pay on Mar. 5, 2021, by \$40, see JX-14, at 7, but this error is immaterial); Tr. 85; JX-21 (showing Helbling’s net income (after employer deductions) for Nov. 18, 2020 to Apr. 6, 2021, was about \$40,000); Tr. 48–49; RX-4, at 2 (showing Helbling’s purported after-tax pay for Apr. 17, 2020 to Apr. 16, 2021, was approximately \$48,500 and averaged about \$4,000 per month).

<sup>34</sup> JX-8, at 6.

<sup>35</sup> Tr. 50; RX-4, at 2.

<sup>36</sup> Tr. 59–61.

<sup>37</sup> Tr. 116–17; JX-21.

different conclusions stem from the different methodologies the parties used to calculate monthly cash flow.

I credited neither party's approach. The primary flaw in Helbling's calculation is that he based the income component on what he described as his after-tax pay received from April 17, 2020 to April 16, 2021.<sup>38</sup> Helbling, however, did not pay taxes on this income.<sup>39</sup> And, according to Helbling, as a 1099 employee, his employer withheld no taxes on it, either.<sup>40</sup> Instead, in his attorney's words, Helbling calculated what a "rough tax would have been on a month in, month out basis."<sup>41</sup> Helbling, who is not an accountant, simply estimated his tax obligation by using unspecified publicly available federal and state tax rates.<sup>42</sup> Deducting taxes he did not pay from compensation he received reduced his income figure. As a result, this approach generated an inaccurately high negative monthly cash flow figure.

Enforcement's cash flow calculation was also problematic. Enforcement computed Helbling's average net pay for pay periods November 18, 2020 to April 6, 2021,<sup>43</sup> which included pay periods (and pay dates) preceding the issuance of the Award. Helbling's pay during those pre-Award periods was higher than afterward. By including this pre-Award income in the cash flow calculation, Enforcement's approach yielded a higher average monthly net pay figure than if its calculation were limited to post-Award income. This resulted in a positive monthly cash flow figure when it would not otherwise have done so. Because the key issue here is whether Helbling had an inability to pay on or after January 28, 2021, the compensation he received after the Award is the most relevant.<sup>44</sup> After January 28—specifically, from February 5, 2021 through April 16, 2021—Helbling received total compensation of about \$11,900.<sup>45</sup> This amounted to about \$5,000 per month. Given Helbling's average monthly expenses of \$6,000 per month,<sup>46</sup> he had a negative monthly cash flow of about \$1,000 per month during this period. In sum, Helbling has faced financial hardships recently, including after the Award was issued.

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<sup>38</sup> RX-4, at 2; Tr. 48–49.

<sup>39</sup> Tr. 86; JX-8, at 4 (stating that Helbling "didn't file taxes" for years 2019, 2020, 2021).

<sup>40</sup> Tr. 49.

<sup>41</sup> Tr. 51.

<sup>42</sup> Tr. 49. Helbling characterized his income tax expense/disbursement on his Financial Statement as "TBD." JX-8, at 6. His tax liability calculation contained in RX-4, at 2 was uncorroborated and speculative. I therefore did not consider it in my determination of his financial condition.

<sup>43</sup> JX-21.

<sup>44</sup> Enforcement does not accuse Helbling of engaging in a fraudulent conveyance or other improper disposition of assets or income before the Award was issued. Nor does Enforcement "suggest that [Helbling] should have put money in escrow before he was named in the arbitration or before the award was entered." *DiPietro*, 2016 SEC LEXIS 1036, at \*18 n.26. So I viewed the evidence of Helbling's pre-Award income as merely providing "context and a fuller picture of [his] finances and stream of income over time." *Id.*

<sup>45</sup> RX-4, at 1; JX-14, at 5–10.

<sup>46</sup> Tr. 49–50, 87; RX-4, at 2; JX-8, at 6.

Even so, Helbling failed to establish his defense.<sup>47</sup> He denied currently having sufficient cash assets or marketable securities to pay the Award.<sup>48</sup> But at the time the Award was issued, and for several months afterward, he had sufficient funds to pay nearly all of the Award, or at least a significant portion of it. On January 28, 2021, Helbling’s checking account balance was almost \$27,000,<sup>49</sup> and about \$24,500 the next day.<sup>50</sup> Over the following month, the balance fluctuated. It reached a high of about \$26,400 and fell no lower than about \$19,000.<sup>51</sup> On the deadline for paying the Award, March 1, 2021, his account balance was about \$25,500—enough to pay the damages portion of the Award, the filing fee, and part of the interest.<sup>52</sup> A few weeks later, by March 24, Helbling’s balance was about \$12,000.<sup>53</sup> And he had about \$9,400 in cash by April 19, 2021.<sup>54</sup> Helbling failed to explain why he did not use some of his funds to pay at least a meaningful portion of the Award.<sup>55</sup> This failure is fatal to his defense.

Additionally, while Helbling denied having the capacity to borrow approximately \$28,000 to satisfy the Award,<sup>56</sup> he failed to show that he could not make a meaningful payment by reducing his living expenses or by borrowing funds.<sup>57</sup> As of April 19, 2021, Helbling owed \$23,000 in undocumented loans with no maturity dates that he received from two family members and a friend.<sup>58</sup> There was conflicting evidence about whether he tried to borrow additional funds from them to pay any part of the Award. Helbling first testified that he “attempted many times” to do so.<sup>59</sup> Then, a few minutes later, he contradicted that testimony and confirmed that he had not sought to obtain a loan from any source of any kind to pay the Award.<sup>60</sup>

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<sup>47</sup> See *Malatesta*, 2021 FINRA Discip. LEXIS 1, at \*12–13 (finding that negative cash flow did not preclude a finding that respondent failed to establish an inability-to-pay defense).

<sup>48</sup> Tr. 58–59.

<sup>49</sup> JX-15, at 50.

<sup>50</sup> JX-15, at 54; Tr. 67–68.

<sup>51</sup> JX-15, at 54, 62; Tr. 69.

<sup>52</sup> JX-15, at 62; Tr. 70.

<sup>53</sup> JX-15, at 62.

<sup>54</sup> JX-8, at 1.

<sup>55</sup> The record does not reflect that Helbling is supporting anyone other than himself.

<sup>56</sup> Tr. 59.

<sup>57</sup> Helbling did not try to obtain a loan against his largest asset, his home, valued at \$350,000, according to the Financial Statement. JX-8, at 1. Helbling explained that he did not do so because his home was mortgaged in the amount of about \$361,000, and he therefore did not have any equity in it. Tr. 56–58, 78; *see also* JX-8, at 2 (reflecting mortgages totaling about \$361,000). I find his explanation reasonable.

<sup>58</sup> Tr. 71–73; JX-8, at 2; JX-10, at 3.

<sup>59</sup> Tr. 73.

<sup>60</sup> Tr. 81.

I credit Helbling’s second answer, which is identical to his response in a supplement to his Financial Statement. In his supplemental response, he stated that he had not “sought to obtain a loan from any source, whether personal or institutional or otherwise.”<sup>61</sup> Helbling attributed his inconsistent answers to his misunderstanding the question on the supplement. He claimed that he interpreted it as referring only to “banks and stuff like that.”<sup>62</sup> This explanation was unconvincing, as the question on the supplement was clear and unambiguous. Helbling’s failure to show that he could not borrow funds to make a meaningful payment toward the Award is fatal to his defense.<sup>63</sup>

Finally, the evidence showed that, rather than make a meaningful payment toward the Award, Helbling chose to make payments totaling \$6,000 to a friend and a family member who had loaned him funds. On January 28, 2021, the day the Award was issued, Helbling repaid \$1,000 of the \$9,000 loan he received from a family member.<sup>64</sup> Then, on March 4, he paid \$5,000 to a friend who had loaned him \$15,000.<sup>65</sup> Helbling’s failure to pay down the Award results from his asset-allocation choices rather than a genuine inability to pay.<sup>66</sup>

\* \* \*

Helbling failed to show that he could not have paid at least a meaningful portion of the Award. In fact, the evidence showed that he could have done so at the time the Award was issued and afterward based on available funds. Helbling also failed to prove that he could not reduce his living expenses or borrow funds to pay a meaningful portion of the Award. Instead, he chose to make loan repayments on personal loans that did not have fixed repayment dates. For these reasons, I reject Helbling’s bona fide inability-to-pay defense.

#### **IV. Sanctions**

“Honoring arbitration awards is essential to the functioning of the [FINRA] arbitration system, [and requiring] associated persons to abide by arbitration awards enhances the

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<sup>61</sup> JX-10, at 5–6.

<sup>62</sup> Tr. 75.

<sup>63</sup> See *Regulatory Operations v. Fannin*, No. ARB170007, at 12 (OHO Aug. 25, 2017), [https://www.finra.org/sites/default/files/OHO\\_Fannin\\_ARB170007\\_082517.pdf](https://www.finra.org/sites/default/files/OHO_Fannin_ARB170007_082517.pdf) (rejecting inability-to-pay defense when respondent “provided no evidence of any attempt to borrow funds in order to satisfy the Award.”).

<sup>64</sup> Tr. 75–76; JX-10, at 5, 35. The record does not reflect whether Helbling knew about the Award before he made this payment. But it is likely Helbling did know, as it is implausible that he just happened to make the payment by coincidence on the same day the Award was issued.

<sup>65</sup> Tr. 75; JX-10, at 3, 5; JX-15, at 62.

<sup>66</sup> See *DiPietro*, 2016 SEC LEXIS 1036, at \*19 (rejecting inability-to-pay defense when respondent’s failure to pay arbitration award hinged on asset-allocation choices to pay discretionary expenses); *Pincus*, 2019 FINRA Discip. LEXIS 7, at \*8 (“Since the date of the Award, Pincus has had sufficient income to make some meaningful payment toward the Award. The evidence overwhelmingly shows that Pincus’s failure to pay down the balance of the Award is a result of his asset-allocation choices rather than a genuine inability to pay.”).



effectiveness of the arbitration process.”<sup>67</sup> “[A]llowing members or their associated persons that fail to pay arbitration awards to remain in the securities industry presents regulatory risks and is unfair to harmed customers.”<sup>68</sup> Helbling has harmed the prevailing arbitration claimant (Oppenheimer), which, though not a customer, has nonetheless had to wait for satisfaction of the Award, or to receive at least some meaningful portion of it. “Conditionally suspending [Helbling] from association with FINRA members gives him an incentive to pay the [A]ward.”<sup>69</sup> I therefore find it appropriate to suspend Helbling from association with any FINRA member firm as ordered below.

## V. Order

Under FINRA Rule 9559(n), I have broad discretion to impose an appropriate sanction in this expedited proceeding. That Rule provides that the Hearing Officer “may approve, modify or withdraw any and all sanctions, requirements, restrictions or limitations imposed by the notice and . . . may also impose any other fitting sanction . . . and may impose costs.” Under Article VI, Section 3(b) of FINRA’s By-Laws<sup>70</sup> and FINRA Rule 9559(n), I suspend Helbling from associating with any FINRA member firm in any capacity, effective upon the issuance of this Decision. The suspension will remain in effect until he produces sufficient documentary evidence to FINRA showing that (1) the Award has been paid in full; (2) Helbling and the arbitration creditor have agreed to settle the matter, and Helbling is current on the settlement; or (3) Helbling has filed a petition in a United States Bankruptcy Court, or a United States Bankruptcy Court has discharged the debt representing the Award. Upon such showing, the suspension will automatically terminate.<sup>71</sup>

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<sup>67</sup> *Michael David Schwartz*, Exchange Act Release No. 81784, 2017 SEC LEXIS 3111, at \*18 (Sept. 29, 2017).

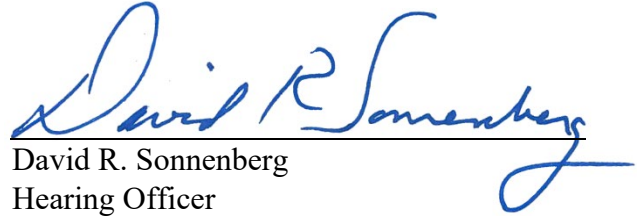
<sup>68</sup> SR-FINRA-2010-014, Order Approving Proposed Rule Change Relating to FINRA Rule 9554, Exchange Act Release No. 62211, 75 Fed. Reg. 32525 (June 8, 2010).

<sup>69</sup> *Schwartz*, 2017 SEC LEXIS 3111, at \*18 (quoting *William J. Gallagher*, Exchange Act Release No. 47501, 2003 SEC LEXIS 599, at \*13 (Mar. 14, 2003)).

<sup>70</sup> See p. 2 n.2, above.

<sup>71</sup> Helbling must also pay the costs of the hearing before the suspension terminates.

Helbling is also **ORDERED** to pay FINRA costs of \$2,131.67, which include an administrative fee of \$750 and the hearing transcript cost of \$1,381.67. These costs are due and payable upon the issuance of this Decision.<sup>72</sup>

  
David R. Sonnenberg  
Hearing Officer

Copies to:

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Jennifer L. Crawford, Esq. (via email)

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<sup>72</sup> I considered and rejected without discussion all other arguments by the parties.